

1. This correspondence is in response to reply brief filed on 03/23/2009 and communication sent to applicant and examiner on 06/18/2009 from the Board of Patent Appeals and Interferences.
2. The reply brief filed 03/23/2009 has been entered and considered. The application has been forwarded to the Board of Patent Appeals and Interferences for decision on the appeal.
3. Responsive to '***A copy of Ex parte HADDAD***' attached with the reply brief and included in the reply **Third Issue** (page 5), a supplemental Examiner's Answer is set forth below:

Examiner has overlooked the document, '***A copy of Ex parte HADDAD***', attached with the reply brief; however, further consideration revealed that this document ['***A copy of Ex parte HADDAD***'] is found to be new evidence presented after final office action.

In accordance with 37 CFR 41.41(a)(2):

"A reply brief shall not include any new or non-admitted amendment, or any new or non-admitted affidavit or other evidence. See § **1.116** of this title for amendments, affidavits or other evidence filed after final action but before or on the same date of filing an appeal and § **41.33** for amendments, affidavits or other evidence filed after the date of filing the appeal"

4. Appellant may file another reply brief in compliance with 37 CFR 41.41 within two months of the date of mailing of this supplemental examiner's answer. Extensions of time under 37 CFR 1.136(a) are not applicable to this two month time period. See 37 CFR 41.43(b)-(c).

A Technology Center Director or designee has approved this supplemental examiner's answer by signing below:

/Timothy P Callahan/

Director, Technology Center 2400